



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed new Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) gives notice of a proposed new system of records entitled “COMMERCE/PAT-TM-24 Background Investigations.” We invite the public to comment on the system announced in this publication.

DATES: Written comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The proposed system of records will be effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: Joseph.Burns@uspto.gov. Include “Privacy Act PAT-TM-24 comment” in the subject line of the message.
- Fax: (571) 273-1537, marked to the attention of Joseph Burns, Office of Security and Safety, Office of Administrative Services.
- Mail: Joseph Burns, Director, Office of Security and Safety, Office of Administrative Services, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

All comments received will be available for public inspection at the Federal rulemaking portal located at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Joseph Burns, Director, Office of Security and Safety, Office of Administrative Services, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–1537.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of a new system of records that is subject to the Privacy Act of 1974. This system of records maintains information on individuals who undergo a personnel background investigation for the purpose of determining suitability for USPTO employment, contractor employee fitness, eligibility for access to classified information, and/or access to a federal facility or information technology system.

The proposed new system of records, “COMMERCE/PAT-TM-24 Background Investigations,” is published in its entirety below.

COMMERCE/PAT-TM-24

System name:

Background Investigations.

Security classification:

None for the system. However, items or records within the system may have national security/foreign policy classifications up through Secret.

System location:

Office of Security and Safety, Office of Administrative Services, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

Categories of individuals covered by the system:

Applicants and employees or government contractors, experts, instructors, and consultants who undergo a personnel background investigation for the purpose of determining suitability for USPTO employment, contractor employee fitness, eligibility for access to classified information, and/or access to a federal facility or information technology system.

Categories of records in the system:

a. Name; address; date and place of birth; Social Security Number; citizenship; physical characteristics; employment and military service history; credit references and credit records; education; medical history; arrest records; Federal employee relatives; dates and purpose of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and security; and suitability materials. This system does not include records of EEO investigations. Such records are covered in a government-wide system noticed by the Office of Personnel Management and now the responsibility of the Equal Employment Opportunity Commission.

b. Summaries of personal and third party interviews conducted during the course of the background investigation.

c. Records of personnel background investigations conducted by other Federal agencies.

d. Records of adjudicative and HSPD 12 decisions by other Federal agencies, including clearance determinations and/or polygraph results.

Authority for maintenance of the system:

Executive Orders 10450, 11478, 12065; 5 U.S.C. 301 and 7531–7533; 15 U.S.C. 1501 *et seq.*; 28 U.S.C. 533–535; 44 U.S.C. 3101; and Equal Employment Act of 1972.

Executive Orders 9397, as amended by 13478, 10450, 10577, 10865, 12968, and 13470; Section 2, Civil Service Act of 1883; Public Laws 82–298 and 92–261; Title 5, U.S.C., sections 1303, 1304, 3301, 7301, and 9101; Title 22, U.S.C., section 2519; Title

42 U.S.C. sections 1874 (b)(3), 2165, 2201, and 2455; Title 50 U.S.C. section 435b(e); Title 5 CFR sections 731, 732 and 736; Homeland Security Presidential Directive 12 (HSPD 12) and OMB Circular No. A-130.

Purpose(s):

The records in this system may be used to provide investigatory information for determinations concerning whether an individual is suitable or fit for agency employment; eligible for logical and physical access to federally controlled facilities and information systems; eligible to hold sensitive positions (including but not limited to eligibility for access to classified information); fit to perform work for or on behalf of the agency as a contractor employee; qualified for government service; qualified to perform contractual services for the agency; and loyal to the United States. The system is also used to document such determinations and to otherwise comply with mandates and Executive Orders.

These records may also be used to locate individuals for personnel research.

The records may be used to help streamline and make more efficient the investigations and adjudications processes generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The USPTO will use the information contained in this system of records to conduct background investigations on applicants and employees.

Information concerning nominees, members and former members of public advisory committees may be disclosed: (a) to OMB in connection with its committee management responsibilities; (b) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; and (c) to a Federal, state or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership.

Information concerning (1) current employees, former employees, and prospective employees; (2) interns and externs; (3) employees of contractors used, or which may be used, by the agency on national security classified projects; (4) and principal officers of some contractors used, or which may be used, by the agency; and (5) principal officers and some employees of organizations, firms or institutions which are recipients or beneficiaries or prospective recipients or beneficiaries of grants, loans, guarantee or other assistance programs of the agency;—may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. Disclosure of information from this system of records may also be made to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts as authorized by the Debt Collection Act (31 U.S.C. 3718).

In addition to the routine uses in the Prefatory Statement of General Routine Uses, as found at 46 FR 63501-63502 (December 31, 1981):

(1) Routine uses will include disclosure for law enforcement purposes to the appropriate agency or other authority, whether federal, state, local, foreign, international or tribal, charged with the responsibility of enforcing, investigating, or prosecuting a violation of any law, rule, regulation, or order in any case in which there is an indication of a violation or potential violation of law (civil, criminal, or regulatory in nature).

(2) Routine uses will include disclosure to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(3) Routine uses will include disclosure to contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the USPTO, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to the USPTO employees.

Disclosure to consumer reporting agencies:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in paper format in file folders, as digital images, and in electronic databases. Background investigation forms are maintained in the Electronic Questionnaires for Investigations Processing (e-QIP) automated system, which was developed for the U.S. Office of Personnel Management (OPM), Federal Investigative Services Division.

Retrievability:

Records are retrieved by name, social security number and/or other unique identifier of the individual on whom they are maintained. The files are searchable in a database available only to authorized employee and contractor staff members of the Office of Human Resources and Office of Security and Safety.

Safeguards:

Records are located in secured rooms with retained background investigative security files being housed in security containers with access limited to those whose official duties require access. Electronic files are password protected and can only be accessed by authorized personnel.

The e-QIP system is subject to federal law governing records maintained on individuals. Unauthorized attempts to access the e-QIP system, as well as any use of data in the system for unauthorized purposes, are a violation of federal law and/or regulation. Violators are subject to disciplinary action and prosecution.

Retention and disposal:

Records retention and disposal is in accordance with the series record schedules.

System manager(s) and address:

Director of Security and Safety, United States Patent and Trademark Office, P.O.
Box 1450, Alexandria, VA 22313-1450.

Notification procedure:

Information about the records contained in this system may be obtained by sending a request in writing, signed, to the system manager at the address above or to the address provided in 37 CFR 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought in accordance with the procedures for making inquiries appearing in 37 CFR 102 subpart B.

Record access procedures:

Requests from individuals should be addressed as stated in the notification section above.

Contesting record procedures:

The general provisions for access, contesting contents, and appealing initial determinations by the individual concerned appear in 37 CFR 102 subpart B. Requests from individuals should be addressed as stated in the notification section above.

Record source categories:

Subject individuals; OPM, FBI and other Federal, state and local agencies; individuals and organizations that have pertinent knowledge about the subject individual; and those authorized by the individual to furnish information.

Exemptions claimed for the system:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all investigatory information and material in the record which meets the criteria of these subsections are exempted from the notice, access, and contest requirements under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent disclosure of classified information as required by Executive Order 12065, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

Dated: November 18, 2013.

Susan K. Fawcett,

Records Officer, USPTO,

Office of the Chief Information Officer.

BILLING CODE: 3510-16-P

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